

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

**PLAINTIFFS' UNOPPOSED MOTION TO
DISMISS DEFENDANT CORIZON HEALTH, INC.**

Plaintiffs Cynthia B. Scott, *et al.*, (“Plaintiffs”), by their attorneys, subject to the consent of Defendant Corizon Health, Inc. (“Corizon”), hereby respectfully move this Court for the entry of an Order dismissing Corizon from this action, with prejudice, subject only to the condition that Corizon shall remain subject to this Court’s supervisory jurisdiction pending its completion of certain limited remaining discovery obligations agreed upon between the Plaintiffs and Corizon. The Virginia Department of Corrections Defendants, by counsel, have advised that they do not oppose this Motion.

As grounds for the granting of the relief sought, Plaintiffs aver as follows:

1. Effective as of May 1, 2013, Corizon became the VDOC's designated provider of medical care services at a host of VDOC correctional facilities, including the Fluvanna Correction Center for Women ("FCCW"), pursuant to the provisions of VDOC Contract No. DOC-13-003-COMP.

2. Corizon became a named defendant in this action when Plaintiffs' Second Amended Complaint for Declaratory and Injunctive Relief was accepted for filing as of July 15, 2013. *See* ECF Docket No. 58.

3. On or about June 3, 2014, a little less than one month before the formal conclusion of discovery in this action pursuant to the Amended Scheduling Order currently in effect, the Plaintiffs learned that Corizon had provided the VDOC with notice of Corizon's intention to unilaterally cancel VDOC Contract No. DOC-13-003-COMP, subject to a 120-day notice of cancellation period ending on or about October 1, 2014, some two full months before trial is scheduled to commence herein.

4. Although Corizon's notice of cancellation was expressly subject to certain conditions under which the cancellation could be rescinded and Corizon would continue to serve as the VDOC's medical care contractor, the VDOC immediately commenced an emergency procurement process, resulting in its determination to award a new medical care contract, on an interim basis, to Armor Correctional Health Services, Inc. ("Armor"), effective as of October 1, 2014.

5. As a result of the foregoing developments, the parties acknowledge that, well in advance of the entry of any judgment granting of some or all of the declaratory and/or injunctive relief sought by the Plaintiffs, Corizon will no longer serve as the VDOC's medical care provider at FCCW, and that the Plaintiffs' causes of action and claims for relief, *vis-à-vis* Corizon, will be rendered moot.

6. Accordingly, rather than delay Corizon's dismissal from this action until early October, in the midst of the parties' briefing of dispositive motions and well in advance of trial, the Plaintiffs are willing to withdraw their claims against Corizon and grant it a dismissal from this action now, without opposition of any of the parties and subject to the condition that Corizon will complete certain outstanding discovery obligations to the Plaintiffs that it has agreed to

fulfill, with this Court maintaining continuing jurisdiction over Corizon for the limited purpose of ensuring that those obligations are properly satisfied.

7. The Emergency Motion to Stay Litigation Pending Joinder of Necessary Party filed by Corizon on June 9, 2014 (ECF Dkt. No. 117), which has been fully briefed and awaits disposition by the Court, may be denied as moot upon the granting of the relief sought herein.

8. A Proposed Order setting forth the relief sought by this Motion, which all counsel have reviewed and approved, is attached hereto as Exhibit A.

WHEREFORE, for the foregoing reasons, the Plaintiffs, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, hereby request that Corizon be dismissed from this action with prejudice and without the awarding of any costs.

DATED: July 28, 2014

Respectfully submitted,

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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

ORDER OF DISMISSAL OF DEFENDANT CORIZON HEALTH, INC.

This matter comes before the Court for decision on the Plaintiffs' Unopposed Motion to Dismiss Defendant Corizon Health, Inc. pursuant to Fed. R. Civ. P. 41(a)(2). For the reasons set forth in the Motion and good cause for the relief sought therein having been shown,

IT IS HEREBY ORDERED:

1. That Corizon Health, Inc. should be and the same is hereby **DISMISSED** from this action, with prejudice and without any awarding of costs;
2. That Corizon, as a non-party, shall remain subject to the supervisory jurisdiction of this Court for the limited purpose of overseeing Corizon's completion of certain outstanding and unresolved discovery obligations to the Plaintiffs, as mutually agreed upon by those parties;
3. That upon Corizon's completion of the discovery obligations referenced above, the Plaintiffs will inform the Court accordingly and the instant Order shall become final and unappealable; and
4. That Corizon's Emergency Motion to Stay Litigation Pending Joinder of Necessary Party, filed June 9, 2014 (ECF Dkt. No. 117), is hereby denied as moot.

Dated: July/August __, 2014

The Hon. Norman K. Moon
Senior United States District Judge

Copies to: All Counsel of Record

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of July, 2014, true and correct copies of Plaintiffs' Consent Motion to Dismiss Defendant Corizon Health, Inc. and proposed Order were served *via* electronic mail upon the following:

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